

1. THE PURPOSE OF THIS PLAN IS TO DEFINE THE LIMITS OF THE PROPOSED ACCESS EASEMENT OVER LAND NOW OR FORMERLY OF THE TOWN OF BROOKLINE AND PIERCE STREET FOR THE BENEFIT OF 60-64 HARVARD STREET.
2. THIS PLAN WAS PREPARED WITHOUT THE BENEFIT OF A TITLE REPORT IS SUBJECT TO ANY FINDINGS SUCH A REPORT MIGHT DISCLOSE.
3. THIS DOCUMENT IS AN INSTRUMENT OF SERVICE OF FELDMAN LAND SURVEYORS ISSUED TO OUR CLIENT FOR PURPOSES RELATED DIRECTLY AND SOLELY TO FELDMAN LAND SURVEYORS' SCOPE OF SERVICES UNDER CONTRACT TO OUR CLIENT FOR THIS PROJECT. ANY USE OR RELIANCE ON THIS PLAN BY ANY PARTY FOR PURPOSES UNRELATED DIRECTLY AND SOLELY TO SAID CONTRACT SHALL BE AT THE USER'S SOLE AND EXCLUSIVE RISK AND LIABILITY, INCLUDING LIABILITY FOR VIOLATION OF COPYRIGHT LAWS, UNLESS WRITTEN CONSENT IS PROVIDED BY FELDMAN LAND SURVEYORS.

DH————— DRILL HOLE
FD————— FOUND
SB————— STONE BOUND

FELDMAN LAND SURVEYORS
152 HAMPDEN STREET
BOSTON, MASS. 02119

SEPTEMBER 9, 2021
PHONE: (617)357-9740
www.feldmansurveyors.com

SCALE: 1"=10'

RESEARCH KA	FIELD CHIEF KH	PROJ MGR KA	APPROVED <i>[Signature]</i>	SHEET NO. 1 OF 1
CALC KA	CADD KA	FIELD CHECKED	CRD FILE 17978	JOB NO. 2100562

FILENAME: S:\PROJECTS\2021\2100562\DWG\2100562-EASE.dwg

I CERTIFY THAT THIS PLAN CONFORMS WITH THE RULES AND REGULATIONS OF THE
REGISTERS OF DEEDS.

CERTIFY THAT THE PROPERTY LINES SHOWN HEREON ARE THE LINES DIVIDING EXISTING OWNERSHIPS, AND THE LINES OF STREETS AND WAYS SHOWN ARE THOSE OF PUBLIC OR PRIVATE STREETS OR WAYS ALREADY ESTABLISHED, AND THAT NO NEW LINES FOR DIVISION OF EXISTING OWNERSHIP OR FOR NEW WAYS ARE SHOWN

KEVIN ARSENAULT, PLS (MA# 45286)
KARSENAULT@FELDMANSURVEYORS.COM

9-09-2021
DATE



ARTICLE 5

ADVISORY COMMITTEE’S SUPPLEMENTAL RECOMMENDATION

Recommendation: The Advisory Committee recommends Favorable Action on Article 5 as submitted by the Commissioner of Public Works by a vote of 26-0-0.

Executive Summary:	Warrant Article 5 authorizes the Select Board to negotiate and grant an easement across the Health Building parking lot (town property) to the owners of the adjacent properties at 60-64 Harvard Street. The easement will allow access to their parking lot which is located at the rear of the properties, upon such terms and conditions that are in the best interest of the town. The parking lot entrance was moved in 1997 when the town shortened Pierce Street and reorganized the site plan to improve safety for Pierce School. The rearrangement was done collaboratively with the owners of 60-64 Harvard Street, and there was an expectation that the town would provide this easement. WA 5 fulfills this expectation.
Voting Yes will...	Voting yes will allow the town to grant this easement and conform the land records to the existing built condition. This will resolve for the landowners the current situation where they are unable to sell their property because their right of access to their parking lot is not documented in the legal record.
Voting No will...	Voting no will block the resolution of this issue as proposed.
Financial impact [if any]	None anticipated
Legal implications [if any]	The easement is being drafted to include flexibility for future adjustment so that the town has the ability to reorganize/relocate the abutter access in conjunction with the Pierce School project or other future opportunities.

Introduction

Warrant Article 5 formally addresses a modification of the Town Center campus created in 1997 as part of the Town’s Town Center Renewal Project PW/97-3. That project rearranged Pierce Street and the Public Health Building parking lot to improve safety for Pierce School, shortening the street and creating a one-way drop-off circulation through the lot. These changes blocked off access to the adjacent parking lot and necessitated relocation of that access. Director of Transportation and Engineering Rob King spoke with staff who were present at the time and reported that there was excellent dialogue and collaboration with abutting property owners. The expectation was that the town would move to provide a permanent access easement (which inadvertently did not happen).

Recently the landowners reached a preliminary agreement to sell their property, and the title insurance company flagged this issue which is preventing the sale transaction. The town is now working with the property owners’ attorney who is drafting the easement.

Evaluation Methodology/Research

A 1919 map of the site prior to the construction of Town Hall and the Pierce School can be found here (Plate 1):

https://www.digitalcommonwealth.org/book_viewer/commonwealth:tt44pw28z#1/1

This historic view helps us understand that the “land locked” condition for this parcel is a creation of the town’s public building/land development.

Discussion

Several concerns were raised as follows:

1. The design of the Pierce School project might require changes to the site plan and the easement. Attorney Gilbert said that this flexibility would be incorporated in the easement agreement to the satisfaction of the town, to allow modifications in the future.
2. An unknown future use of the 60-64 Harvard property might cause an increased intensity of cars and use, causing an issue for the town (student safety). Rob King noted that engineering will document the current intensity of usage of the parking lot.
3. Clarification of these considerations, and language addressing them should be incorporated into a draft easement agreement prior to November Town Meeting, so that Town Meeting Members can understand how they are to be addressed when they cast their votes.

At the first Advisory Committee meeting on Article 5, both Associate Town Counsel John Buchheit and counsel for the landowners attended, and Attorney Buchheit affirmed that they would work together to prepare a draft that protects the town’s interests and make it available to Town Meeting Members prior to Special Town Meeting. A draft was subsequently prepared and submitted.

Recommendation

The Advisory Committee recommends Favorable Action on Article 5 as submitted by the Commissioner of Public Works by a vote of 26-0-0.

# Votes Yes	26
# Votes No	0
# Votes Abstain	0
Vote Description:	FAVORABLE ACTION on SB MOTION on WA5
	<i>Enter Y, N or A</i>
Scott Ananian	Y
Carla Benka	Y
Ben Birnbaum	Y
Harry Bohrs	Y

# Votes Yes	26
# Votes No	0
# Votes Abstain	0
Vote Description:	FAVORABLE ACTION on SB MOTION on WA5
Cliff Brown	Y
George Cole	Y
John Doggett	Y
Dennis Doughty	
Harry Friedman	Y
David-Marc Goldstein	Y
Neil Gordon	Y
Susan Granoff	Y
Kelly Hardebeck	
Amy Hummel	Y
Alisa Jonas	Y
Janice Kahn	Y
Steve Kanes	Y
Carol Levin	Y
Pam Lodish	Y
Linda Olson Pelhke	Y
Donelle O'Neal	Y
David Pollak	Y
Carlos Ridruejo	Y
Lee Selwyn	Y
Alok Somani	Y
Paul Warren	Y
Christine Westphal	
Neil Wishinsky	Y
Chi Chi Wu	Y
Mike Sandman	

ARTICLE 6

SELECT BOARD'S SUPPLEMENTAL RECOMMENDATION

The Select Board reconsidered their vote on Article 6 in order to address the minor amendments proposed by the Advisory Committee.

On November 9, 2021, a unanimous Select Board recommended FAVORABLE ACTION on the motion offered by the Advisory Committee.

ARTICLE 12

SELECT BOARD'S SUPPLEMENTAL RECOMMENDATION

The Select Board reconsidered their vote on Article 12 in order to address the changes proposed by the petitioner and that of the Advisory Committee. The petitioner is not in agreement with these changes as described in the Advisory Committee report. The Board chose to support the Advisory Committee motion because it provided more flexibility to staff.

On November 9, 2021, the Select Board recommended FAVORABLE ACTION on the motion offered by the Advisory Committee.

ROLL CALL VOTE:

Aye:

Greene

Hamilton

Van Scoyoc

No:

Fernandez

Aschkenasy

ADVISORY COMMITTEE'S SUPPLEMENTAL RECOMMENDATION

Recommendation: FAVORABLE ACTION on the article as amended by a vote of 11-8-6

Executive Summary:	<p>Article 12 is a resolution that calls on the Select Board to equip all municipal conference and hearing rooms with audiovisual equipment to enable all public bodies meeting under the Open Meeting Law (OML) to provide an option for remote participation and require that all public bodies offer a remote participation option for all meetings.</p> <p>The first four rooms to be equipped include the Select Board Hearing Room, School Committee Hearing Room and Room 103 and will be complete by June 1, 2022. An additional 4 rooms will be completed by November 1, 2022 and all remaining rooms will be updated by June 1, 2023. It is proposed that American Rescue Plan funds be used to purchase the technology.</p>
Voting Yes will...	<p>Encourage the Select Board to equip all conference and hearing rooms with technology to allow boards, committees and commissions to include an option for remote participation and insist that all public bodies meet in a hybrid or fully-remote manner with no option for in-person only participation.</p>

Voting No will...	Defer to Town Staff and the Select Board to schedule and fund the upgrades to conference in hearing rooms for the purpose of remote meeting participation
Financial impact [if any]	<p>An estimate of \$160,000 was provided by Town Staff to the petitioners for the overall cost of the technology and additional \$70,000 is needed to fund 2 part-time positions to provide on-call after-hours meeting support. The cost may be eligible for reimbursement using ARPA funds, including staff, through December 2026.</p> <p>The cost estimate does not include funding for equipment maintenance or upgrades - only the initial purchase.</p>
Legal implications [if any]	The prerequisite for implementation of the second <i>Resolved</i> clause of the petitioners' motion to is for in-person quorum requirement of the OML be suspended per the home rule petition in Warrant Article 11.

Introduction

The petitioners' desire is for all meetings of boards, commissions and committees subject to the Open Meeting Law to have an option for remote participation and drafted WA 11 and 12 together to encourage Brookline to permanently offer remote participation options for all meetings. As written, Article 12 encourages the Select Board to equip every conference room and municipal hearing room with video and audio technology by June 1, 2023 and requests the Select Board prohibit boards and commissions from having in-person meetings only.

The schedule and cost estimates in the warrant article was provided by Town Staff and represents work already underway to expand meeting access once the emergency COVID provisions end on April 1, 2022.

Discussion

For the last 20 months, the emergency provisions of the Open Meeting Law (OML) have allowed all public bodies in Massachusetts to meet remotely. These provisions have given the public and members of public bodies subject to the OML expanded access to meetings. When the emergency provisions expire on April 1, 2022 all boards, committees, and commissions will return to in-person meetings with limited or no option for remote participation for members or the public. For Brookline to continue to offer remote access to in-person meetings, additional technology needs to be added to the rooms in which those public bodies meet.

This warrant article lays out a schedule as developed by Town Staff and estimated costs for equipping conference, meeting and hearing rooms by June 1, 2023. American Rescue Plan Act (ARPA) funds are being requested to cover the cost of purchasing the technology. ARPA funds are temporary and all funds must be obligated by 2024 and spent by 2026. Once the equipment is purchased, the Town will be responsible for ongoing maintenance and upgrades. In addition to maintenance, the Town will also need to hire two part-time on-call support staff to provide technical support to boards and commissions use of the technology for after-hours meetings. The estimated cost of the additional staffing is \$70,000.

The Advisory Committee is supportive of encouraging the Town to provide greater access to meetings by outfitting conference rooms with audiovisual equipment to enable remote participation. Concerns about security and privacy were raised as policies relating to the retention and use of meeting recordings have yet to be developed. Additionally, the Advisory Committee

felt the language in the resolved clauses was too prescriptive. The AC amended the petitioners' language as follows (changes underlined and in bold) to allow for more flexibility in implementing the changes to the conference rooms and preserve the right of boards and commissions to decide whether to hold hybrid meetings:

1. Brookline Town Meeting calls on the Select Board to equip **all** municipal conference and hearing rooms with audiovisual equipment to enable **all** public bodies meeting under OML to provide audiovisual participation access for attendees and members by no later than November 1, 2022, according to the following schedule deemed feasible by Town Staff: four such rooms including the Select Board Hearing Room and School Committee Hearing Room by June 1, 2022; four additional such rooms by November 1, 2022; and **all other such** rooms by June 1, 2023; and
2. Brookline Town Meeting calls on the Select Board, Moderator, and others who appoint public bodies to, once the legal and technological hurdles are surmounted, insist that Brookline public bodies meeting under OML **provide for** hybrid **meetings** rather than **only** via the tradition of meeting in-person **and** providing only telephone access to those seeking to participate remotely; and

Recommendation

The Advisory Committee recommends FAVORABLE ACTION on the article as amended by a vote of 11-8-6.

# Votes Yes	14
# Votes No	3
# Votes Abstain	11
Vote Description:	Motion amend the previous vote on WA 12 and recommend favorable action as amended
	<i>Enter Y, N or A</i>
Scott Ananian	Y
Carla Benka	Y
Ben Birnbaum	Y
Harry Bohrs	A
Cliff Brown	A
George Cole	Y
John Doggett	Y
Dennis Doughty	Y
Harry Friedman	A
David-Marc Goldstein	Y
Neil Gordon	A
Susan Granoff	Y

Kelly Hardebeck	Y
Amy Hummel	A
Alisa Jonas	Y
Janice Kahn	Y
Steve Kanes	
Carol Levin	A
Pam Lodish	A
Linda Olson Pelhke	A
Donelle O'Neal	A
David Pollak	Y
Carlos Ridruejo	A
Lee Selwyn	A
Alok Somani	Y
Paul Warren	N
Christine Westphal	N
Neil Wishinsky	N
Chi Chi Wu	Y
Mike Sandman	

ARTICLE 13

ADVISORY COMMITTEE’S SUPPLEMENTAL RECOMMENDATION

Recommendation: Favorable Action by a vote of 15-1-9.

Executive Summary:	When Town bodies record votes on non-administrative matters, this article will require a roll call—that is, to list individually how each member of the committee voted—rather than to simply give the number of votes on each side. The petitioner feels this will enhance transparency, since otherwise this information would only be available to those who attended the meeting or watched a recording.
Voting Yes will...	Require roll call votes for Town bodies for all votes except for approval of minutes and (at the discretion of the chair) when approving administrative matters.
Voting No will...	Make no change to the Town bylaws. The chairs of Town bodies may elect to use roll call votes or not, as they prefer.
Financial impact	No expected financial impact.
Legal implications	None.

Introduction

In November 2020, Town Meeting approved a bylaw addition requiring roll call votes when the Advisory Committee made a recommendation to Town Meeting and in May 2021 a similar bylaw change extended this to all Town Bodies making recommendations on warrant articles to Town Meeting in the Combined Reports. This article extends the requirement for roll call votes to all non-administrative votes by Town Bodies, and not just those votes which result in recommendations in the Combined Reports to Town Meeting.

There is an exemption for administrative matters, so as not to unnecessarily prolong meetings. There is no exemption for unanimous votes, as the petitioner feels that recording the exact attendance at the moment of the vote is an important component of the public record of the vote.

Evaluation Methodology/Research

- Article 30 of the November 2020 Special Town Meeting #1 amended Town bylaw 2.2.6 to require roll call votes on Advisory Committee recommendations to Town Meeting and Advisory Committee transfers of funds.
- Article 12 of the May 2021 Annual Town Meeting amended Town bylaws to require roll call votes on recommendations made to Town Meeting.

- The warrant article consists of three sentences, applying first to committees established by Town Meeting (typically Moderator’s committees), second to the Committee on Town Organization and Structure (CTO&S), and lastly to committees established by the executive branch (typically the Select Board).
- EDAB recommended favorable action on this article on Sept 29, 2021.

Discussion

The petitioner feels this article would create greater transparency and accountability, even though it would require some public bodies to be willing to change practices slightly.

Discussion at the subcommittee and full AC covered the possible financial implications and were satisfied there was no significant financial impact.

Another topic discussed was whether some members of public bodies might vote differently if they were aware their votes would be subject to public scrutiny. The petitioner felt that if this were so, it would be a change for the better.

No members of the public (other than the petitioner) commented on this article during the public hearing held Oct 4, 2021 by the Schools Subcommittee of the Advisory Committee. No members of the public commented during the public comment portion of the full Advisory Committee hearing on this article held on Oct 12, 2021.

At a meeting of the full AC, it was asked whether working groups appointed by the Select Board would be covered by this article. Groups subject to the Open Meeting Law would be covered by this bylaw, but whether a specific working group is subject to the Open Meeting Law would be a question best answered by Town Counsel.

Recommendation

The Advisory Committee voted 15-1-9 to recommend FAVORABLE ACTION on the following motion:

VOTED: To amend the Town's General By-laws as follows (language to be stricken appearing in ~~*italic-strikeout*~~, language to be added appearing in **bold underline**):

ARTICLE 2.1 TOWN MEETINGS

ARTICLE 2.1.15 TOWN MEETING COMMITTEES

Committees that are established pursuant to a vote of Town Meeting and are not considered by the Attorney General to be “Public Bodies” under the Open Meeting Law shall conduct their meetings in a manner that is consistent with the provisions and intent of the Open Meeting Law.

All committees that are established pursuant to a vote of Town Meeting shall record in the minutes of their meetings a roll-call showing the vote of each member for all votes, except when approving minutes or, at the discretion of the Chair, when voting on other administrative matters.

ARTICLE 2.3 COMMITTEE ON TOWN ORGANIZATION AND STRUCTURE
SECTION 2.3.4 VOTES

CTO&S shall record in the minutes of its meetings a roll-call showing the vote of each member for all votes except when approving minutes or, at the discretion of the Chair, when voting on other administrative matters.

ARTICLE 3. EXECUTIVE BRANCH GENERAL MATTERS
ARTICLE 3.0.1

All elected or appointed public bodies identified in this Article 3 that are subject to the Open Meeting Law shall record in the minutes of their meetings a roll-call showing the vote of each member for all votes except when approving minutes or, at the discretion of the Chair, when voting on other administrative matters.

# Votes Yes	15
# Votes No	1
# Votes Abstain	9
Vote Description:	Recommend favorable action on WA 13
	<i>Enter Y, N or A</i>
Scott Ananian	Y
Carla Benka	A
Ben Birnbaum	Y
Harry Bohrs	
Cliff Brown	
George Cole	Y
John Doggett	A
Dennis Doughty	Y
Harry Friedman	A
David-Marc Goldstein	A
Neil Gordon	Y
Susan Granoff	Y
Kelly Hardebeck	Y
Amy Hummel	A
Alisa Jonas	A
Janice Kahn	A
Steve Kanes	Y
Carol Levin	A
Pam Lodish	
Linda Olson Pelhke	Y
Donelle O'Neal	Y

# Votes Yes	15
# Votes No	1
# Votes Abstain	9
Vote Description:	Recommend favorable action on WA 13
David Pollak	Y
Carlos Ridruejo	Y
Lee Selwyn	
Alok Somani	Y
Paul Warren	Y
Christine Westphal	A
Neil Wishinsky	N
Chi Chi Wu	Y
Mike Sandman	

ARTICLE 15

Commission for Diversity, Inclusion and Community Relations

REPORT AND RECOMMENDATION – WARRANT ARTICLE 15

The mission of the CDICR is to support a welcoming environment by encouraging cooperation, tolerance, and respect among and by all persons who come in contact with the Town of Brookline (i.e. visitors, residents, employers, employees etc.) by advancing, promoting and advocating for the human and civil rights of all through education, awareness, outreach and advocacy.

The CDICR reviewed the warrant article on 10/20/2021. By a vote of 11-0-0, the CDICR recommends FAVORABLE ACTION on Warrant Article 15.

DISCUSSION

Warrant Article 15 would create a new by-law to ensure language access by requiring the town to create a Language Access Plan, appoint a Language Access Coordinator, establish a budget for translation services and a language access liaison within each Town department that deals with the public, and survey Town employees regarding language ability.

Federal law requires recipients of federal funding, such as the Town's receipt of \$43 million in ARPA funds, to provide language access services. According to Census data, an estimated 10% of Town residents, more than 5,600 people, are limited English Proficient (LEP), and 7% of the Town's population has a disability, including one that may impact their ability to communicate. The COVID pandemic, and the disparate impact on LEP communities, only highlighted the importance of making information accessible to all.

The CDICR recognizes the importance of meaningful language access to ensure that LEP and disabled residents have access to all of the Town's services and can meaningfully participate in the Town's civic life.

It is with this in mind that the Commission voted FAVORABLE ACTION on Warrant Article 15 by a vote of 11-0-0.

ARTICLE 19

ADDITIONAL EXPLANATION PROVIDED BY THE PETITIONER

This is a short overview of Art. 19. The Amendment to Art. 19 will not affect this overview.

The existing Nuisance Control By-law was enacted in 2010. It's a tool the police have had 11 years learning how to use effectively. It's a tool the police can use to **de-escalate** situations by allowing the police to impose civil fines – somewhat like writing up tickets – rather than arresting people and beginning a criminal process. The tool – the existing Nuisance Control By-law – also allows the police to impose civil fines on the owners of the property where the Public Nuisance occurs, to prompt the owners to be in better control of their property so that Public Nuisances don't occur in the future – **prevention being better than de-escalation**.

Article 19 would give the police an updated tool.

The existing Nuisance Control Bylaw defines Public Nuisance as follows:

“Public Nuisance means a Gathering of persons on any **Premises** in a manner which constitutes a violation of law **or creates a substantial disturbance of the quiet enjoyment of private or public property in a neighborhood**. Behavior constituting a Public Nuisance **includes, but is not limited to** excessive noise ... obstruction of public ways, ... fights, disturbances of the peace, and littering.“

The heart of the Nuisance Control Bylaw is the definition of **“Premises”**:

“Premises means any residence **or other private property, place, or location, including any commercial or business property.**”

The existing Bylaw already reaches commercial and business property – whether indoor **or outdoor** – so long as it's **private property**.

In the past year the Town has been licensing portions of its sidewalks and curbsides to businesses – typically restaurants and bars for seating and tables. These licensed areas are **not** private property – they are public way, owned by the Town. As a result, the existing Nuisance Control Bylaw cannot be applied by the police if a Public Nuisance occurs on those licensed parts of the public way.

Article 19 would extend the existing Nuisance Control By-law to portions of the public way – sidewalks and streets – that the Town permits businesses to occupy.

As mentioned, the Nuisance Control Bylaw is de-escalatory, allowing the police to impose civil fines rather than beginning a criminal process. Also, it is preventive in that

it permits civil fines on property owners so that, **in the future**, they will be more careful in how their property is used.

For the past 11 years, the police have had authority under the Nuisance Control Bylaw to address Public Nuisances **not only** inside commercial establishments **but also** in **outdoor venues of commercial establishments – for example, seating areas on patios** – so long as the outdoor venues are located on privately owned real estate.

With the Town's licensing parts of the sidewalks and curbsides for commercial use, Article 19 would give the police the same authority to deal with Public Nuisances occurring on these public way commercial venues as the authority the police have had **for the past 11 years** over Public Nuisances occurring in outdoor business venues located on privately owned property. It's an updated tool that doesn't cost the Town any money to provide to the police. Also, it's a tool the police have spent the past 11 years learning how to use.

ARTICLE 21

ADVISORY COMMITTEE’S SUPPLEMENTAL RECOMMENDATION

The Advisory Committee did not vote on Article 21, as it is a “housekeeping” article that is adequately described in the Land Use subcommittee report, below.

Subcommittee Recommendation: Favorable Action 7-0-0.

Executive Summary:	WA 21 corrects what amounts to a typographical error in Section 4.08 (Affordable Housing Requirements) of the Zoning By-law, which had been amended by WA 7 of the November 2020 Special Town Meeting to reduce the threshold of residential projects that trigger the Affordable Housing Requirements of that Section from six units to four units. Use #6 in the Table of Allowable Uses in the Zoning By-Law incorrectly states that “Compliance with § 4.08 required if containing 6 or more dwelling units.” This needs to be corrected to read “Compliance with § 4.08 required if containing four or more dwelling units” to conform to text of WA 7 as adopted.
Voting Yes will...	Correct this error and conform the Table of Uses to the intent and text of WA 7 as adopted.
Voting No will...	Retain the inconsistency in the By-Law that was not discovered until after the November 2020 Special Town Meeting.
Financial impact [if any]	Dollar impact: \$0 Staff impact: 0 Enforcement impact: 0
Legal implications [if any]	Will resolve an ambiguity in the existing By-Law.

Introduction

Following adoption of WA 7 in the November 2020 Special Town Meeting, an error was discovered by the Planning Department in the Use Table in the Zoning By-Law, resulting in a lack of conformity between the Table and the Text of the By-Law and Warrant Article. WA 21 corrects this error and eliminates the inconsistency and ambiguity.

Evaluation Methodology/Research

The error was obvious, and its correction was deemed to be appropriate.

Discussion

Correction of this error conforms the By-Law to the intent of WA 7 of the November 2020 Special Town Meeting as adopted therein.

Recommendation

By a vote of 7-0 with no abstentions, the Advisory Committee Land Use subcommittee recommends FAVORABLE ACTION on WA 21.

Kanes	Y
Pehlke	Y
Pollak	Y
Ridruejo	Y
Selwyn	Y
Warren	Y
Wishinsky	Y

ADVISORY COMMITTEE’S SUPPLEMENTAL RECOMMENDATION

Article 22 – Advisory Committee Recommendation

Firearm Business Uses

Recommendation: The Advisory Committee recommends Favorable Action on Article 22, as amended and renumbered, by a vote of 18-0-3.

Executive Summary:	WA 22 would create a new Section 4.14: Firearm Business Uses to the Zoning By-Law, add to Sec. 4.07, Table of Use Regulations a new Principal Use under Retail and Consumer Service Uses, #29A. If adopted, the By-Law would establish specific locations within G (General Business) Districts by Special Permit only where Firearm Businesses could be located, prohibiting them within 1,000 feet of a K-12 public or private school, within 500 feet of a day care center or pre-school, and in any location that contains or directly abuts residential dwelling units.
Voting Yes will...	Allow the Town to strictly limit locations where Firearm Businesses could be located, and to regulate gun store operations.
Voting Nowill...	Allow Firearm Businesses to be located in any business district and enable them to operate without regulatory guidance.
Financial impact [if any]	Dollar impact: Minimal, associated with the time required of Town staff in the approval and review process and ongoing enforcement. Staff impact: Review of Special Permit applications when/as/if submitted Enforcement impact: Special Permits will be required for any Firearm Business.
Legal implications [if any]	Creating an outright ban on Firearms Businesses has the potential to invite litigation against the Town on 2 nd Amendment grounds. Town Counsel believes that the location restrictions proposed in this Warrant Article, which will still permit some such businesses in Brookline, provide a reasonable balance between the Town’s public safety interests in limiting such businesses and the Town’s potential exposure to 2 nd Amendment litigation.

Introduction

The Town has not thus far received any applications to open a Firearm Business in Brookline. However, Newton has recently established zoning restrictions that are similar to those being proposed in this Warrant Article. The Petitioners believe that Brookline should adopt similar zoning provisions.

The WA would allow Firearm Businesses in G Districts by Special Permit, provided that such businesses are not located within 1,000 feet of any K-12 public or private school, within 500 feet of any pre-school or licensed day care center, or in any location that contains or that directly abuts any residential dwelling unit(s). The attached map, prepaid by the Town's GIS staff, identifies (in dark blue) approximately ten (10) locations – eight (8) in the Coolidge Corner area and two (2) near the Newton line in Chestnut Hill –where a Firearm Business could potentially be located under the warrant article as proposed.

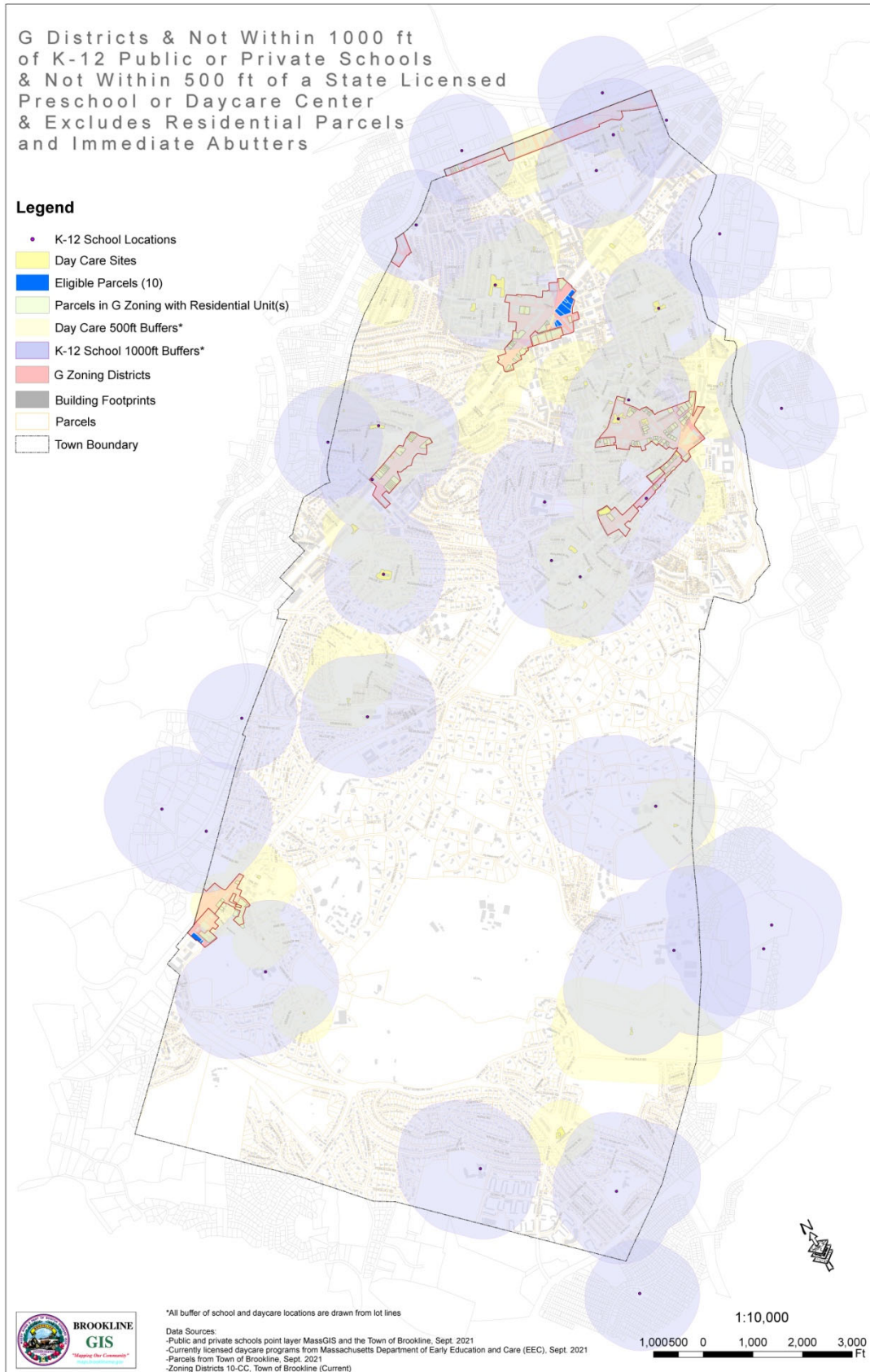
Evaluation Methodology/Research

Comparisons were drawn between the proposed zoning treatment of Firearm Businesses and the location limitations adopted for Marijuana dispensaries. Associate Town Counsel Jonathan Simpson advised the Committee that the 1,000-foot distance from any K-12 school was set based upon 18 U.S.C. § 922(q)(2)(A), the so-called “Gun-Free School Zone Act” (“GFSZA”), which originally was enacted as part of the Crime Control Act of 1990.¹ The GFSZA prohibits the carrying of a firearm within 1,000 feet of a K-12 school. While it does not specifically prohibit a firearm shop from opening within that 1,000-foot exclusion zone, any customer who purchases a firearm from a business located closer than 1,000 from a K-12 school would be in violation of the GFSZA the moment he or she exits the business. No similar restriction in federal law applies to pre-schools and day cares. The Petitioners, with the assistance of the Town's GIS staff, determined that due to the large number of pre-schools and day cares in Brookline, adoption of a 1,000-foot exclusion zone for these activities would operate to prevent the establishment of any Firearm Business in the Town. The Petitioners also initially considered imposing a 150-foot exclusion zone with respect to any residence, but similarly were able to determine that this limit too would effectively prevent Firearm Businesses from locating in Brookline.

Discussion

The Advisory Committee was supportive of the Petitioners' objectives. The word “may” in the proposed language of Section 4.14.F4 – “Prior to the application for a Special Permit, all Firearm Business Uses shall submit a security plan to the Brookline Police Department for review and approval. Review and approval of the security plan may include an inspection of the proposed site by the Police Department....” – was changed to “shall.”

¹ After an adverse Supreme Court decision, Congress re-enacted the GFSZA in 1996, correcting the defects identified by the Supreme Court. The amended GFSZA contained the same prohibitions as the 1996 revision, except the newer version added language to apply the law to any firearm “that has moved in or that otherwise affects interstate or foreign commerce.” 18 U.S.C. § 922(q)(2)(A), (3)(A). Challenges to the new statute have been unsuccessful. See, e.g., *United States v. Danks*, 221 F.3d 1037, 1038-39 (8th Cir. 1999) and *United States v. Dorsey*, 418 F.3d 1038, 1045-46 (9th Cir. 2005), rev'd on other grounds.



Recommendation

By a vote of 18-0-3, the Advisory Committee recommends Favorable Action on WA 22 as amended.

# Votes Yes	18
# Votes No	0
# Votes Abstain	3
Vote Description:	Favorable action on WA 22 as amended by the subcommittee re changing "may" to "shall" in section 4.14.F4, and with the proviso that letter/number formats be standardized
	<i>Enter Y, N or A</i>
Scott Ananian	Y
Carla Benka	Y
Ben Birnbaum	Y
Harry Bohrs	Y
Cliff Brown	
George Cole	Y
John Doggett	
Dennis Doughty	Y
Harry Friedman	
David-Marc Goldstein	Y
Neil Gordon	
Susan Granoff	
Kelly Hardebeck	
Amy Hummel	Y
Alisa Jonas	Y
Janice Kahn	A
Steve Kanes	
Carol Levin	Y
Pam Lodish	Y
Linda Olson Pelhke	Y
Donelle O'Neal	Y
David Pollak	Y
Carlos Ridruejo	
Lee Selwyn	Y
Alok Somani	Y

Paul Warren	Y
Christine Westphal	A
Neil Wishinsky	Y
Chi Chi Wu	
Mike Sandman	A

WARRANT ARTICLE 22: To add a new Section 4.14: Firearm Business Uses to the Town of Brookline Zoning By-Laws, add to Sec. 4.07, Table of Use Regulations a new Principal Use under Retail and Consumer Service Uses, #29A, subject to the regulations in Sec. 4.14 Firearm Uses; and amend Article II, Section 2.00, Definitions, of the Brookline Zoning By-Laws.

Submitted by: Petra Bignami (TMM P12)*, Janice S. Kahn (TMM P15)*,
Alexandra Metral (TMM P1) and Sharon Schoffmann (TMM P14)

*indicates primary petitioners

ART. IV, USE REGULATIONS

Add a new section to Art. IV, as follows:

Section 4.14 FIREARM BUSINESS USES

1. **Purpose.** To establish criteria for the establishment of Firearm Business Uses in the Town to address public safety concerns arising from the operations of such businesses and the potential disruption of peace and quiet enjoyment of the community. This Section 4.14 provides for separation between Firearm Business Uses and certain uses enumerated herein to maximize protection of public health, safety, and welfare in conjunction with the protections from G.L. c. 140, §122-131Y and other State laws and regulations. To the extent this section or any related section can be read to potentially conflict with G.L. c. 140 or other State laws or regulations, the section shall be interpreted to minimize any conflict with State laws or regulations while maximizing the furtherance of the public safety and other public purposes underlying this Section.

2. **Definitions.**

See Section 2, Definitions, of the Zoning By-Law for definitions of applicable terms.

3. **Firearm Business Uses not allowed as-of-right.** Firearm Business Uses are not included within the definitions of retail sales or services, manufacturing, or any other lawful business permitted as of right or by special permit contained in other Sections of this

Zoning By-Law.

4. **Firearm Business Uses allowed by special permit.** Use of land, buildings or structures for a Firearm Business Use shall be allowed only by special permit in the districts specified in Section. 4.07, Table of Use Regulations, subject to the requirements and criteria of this Section. 4.14.

5. **Location requirements.**

All distances in this Section shall be measured in a straight line from the property line of the lot containing the proposed Firearm Business Use to the nearest property line of any of the designated uses set forth herein:

- a. Firearm Business Uses shall not directly abut any property containing a residential use.
- b. Firearm Business Uses shall not be located within 1,000 feet of any private or public K-12 school, whether such school is located within or without the Town's boundaries
- c. Firearm Business Uses shall not be located within 500 feet of any daycare center, preschool, child-care facility, or an existing Firearm Business Use at another location, whether such daycare center, preschool, child-care facility or firearm business use is located within or without the Town's boundaries.
- d. No Firearm Business Use shall be located within a building containing a dwelling unit.

6. **Operational requirements.**

- a. Firearm Business Uses shall obtain and maintain all necessary Federal, State and other required local approvals and licenses prior to beginning operations, including, but not limited to, a valid, current State license issued pursuant to G.L. c. 140, § 122, as applicable. Required State and Federal licenses must be obtained before applying for a Special Permit.
- b. Firearm Business Uses shall comply with all applicable Federal, State and local laws and regulations in the operation of their business.

- c. The hours of operation for a Firearm Business Use shall not adversely impact nearby uses. The hours of operation shall follow all state statutory and regulatory requirements, but in no case shall any Firearm Business Use be open before 10:00 a.m. or remain open after 5:00 p.m.
- d. Prior to the application for a Special Permit, all Firearm Business Uses shall submit a security plan to the Brookline Police Department for review and approval. Review and approval of the security plan shall include an inspection of the proposed site by the Police Department. The plan must include, but not be limited to, the following:
 - 1) Proposed provisions for security.
 - 2) A trained employee shall check identification and compliance with age restrictions prior to customers entering the establishment.
 - 3) The physical layout of the interior, including a demonstration that the size of the store is not so excessive so as to create issues with site security and video monitoring.
 - 4) After-hours storage of all Firearms in locked containers or by otherwise securing the Firearms with tamper-resistant mechanical locks.
 - 5) The number of employees.
- e. Prior to the application for a Special Permit, all Firearm Business Uses shall submit an operations and management plan to the Brookline Police Department for review and approval.
- f. All Firearm Business Uses shall conduct criminal background checks for all employees in accordance with State law.
- g. No persons under the age of 18 shall have access into or within a Firearms Business Use, with the sole exception that minors age 14 and older may access a Firearms Dealer accompanied by the minor's parent or legal guardian.
- h. Firearms Dealers shall videotape the point of sale of all firearms transactions and maintain videos for three years to deter illegal purchases and monitor employees.

7. **Special permit application and procedure.** In addition to the procedural and application requirements of Section. 9.03, an application for special permit for a Firearm Business Use shall include, at a minimum, the following information:
 - a. **Description of Activities:** A narrative providing information about the type and scale of all activities that will take place on the proposed site.
 - b. **Lighting Analysis:** A lighting plan showing the location of proposed lights on the building and the lot and a photometric plan showing the lighting levels.
 - c. **Context Map:** A map depicting all properties and land uses within a minimum 1,000 foot radius of the proposed lot. The context map shall include the measured distance to all uses described in Section. 4.14.E.1 above, and shall be certified by a design professional such as an architect, engineer or land surveyor.
 - d. **Description of Ownership, Management, and Employees:** The name and address of the legal owner of the establishment. The name and address of all persons having any legal, beneficial, equitable, or security interests in the establishment. In the event that a corporation, partnership, trust or other entity is listed, the name, and address of every person who is an officer, shareholder, member, manager, or trustee of the entity must be listed. The name, address, phone number and email address of the manager(s) and assistant manager(s).
 - e. **Comprehensive Signage Plan:**
 - f. **Report from Chief of Police or designee:** confirming that the applicant has submitted the plans requiring approval by the Police Department, and those plans have been approved, along with any additional information requested by the Zoning Board of Appeals or that the Chief of Police feels is relevant to the special permit application.
8. **Special Permit Criteria.** In granting a special permit for a Firearm Business Use, in addition to finding that the general criteria for issuance of a special permit are met, the Zoning Board of Appeals shall find that the following criteria are met:
 - a. The lot is designed such that it provides convenient, safe and secure access and egress for clients and employees arriving to and leaving from the lot.
 - b. The establishment will have adequate and safe storage, security, and a lighting system.
 - c. Loading, refuse and service areas are designed to be secure and shielded from abutting uses.

- d. The establishment is designed to minimize any adverse impacts on abutters or pedestrians.
 - e. The location and operating characteristics of the proposed use will not be detrimental to the public health, safety and welfare of the neighborhood, which may extend into an adjacent municipality, or the Town.
 - f. All signage has been reviewed and approved by the Planning Board as to letter size, color and design per Section. 7.08, to ensure mitigation of impact to the surrounding neighborhood, consistent with applicable federal and State law.
 - g. The establishment has satisfied all of the conditions and requirements in this section.
9. **Severability.** If any portion of this section is ruled invalid, such ruling will not affect the validity of the remainder of the section.

Add to Sec. 4.07, Table of Use Regulations, the following new Principal Use under Retail and Consumer Service Uses, #29A, subject to the regulations in Sec. 4.14 Firearm Uses.

[illegible]

Amend Article II, Definitions, of the Town of Brookline Zoning By-Law as follows:

§2.00 – PURPOSE AND INTENT

For purposes of this By-law, the following words and phrases shall have the meanings given in the following sections, unless a contrary intention clearly appears.

§2.01 – “A” DEFINITIONS

1. ACCESSORY

a. Accessory building: a building devoted exclusively to a use accessory to the principal use of the lot.

b. Accessory use: a use incident to, and on the same lot as, a principal use.

2. AMENITY—A condition or facility that provides comfort or pleasure, including but not limited to desirable exposure to sunlight, protection from adverse microclimate, contribution to favorable microclimate, pleasant views of sky, cityscape, landscape, or works of art, preservation of trees or historic structures, provision of assets or conveniences such as specimen trees or benches.

3. AMMUNITION—As defined or amended by State statute or regulations, cartridges or cartridge cases, primers (igniters), bullets, tear gas cartridges, or propellant powder designed for use in any Firearm. For the purposes of this

definition, “Firearm” is to have the meaning prescribed in this By-Law, and shall include, but not be limited to: firearms (as that term is defined in G.L. c. 140, §121), rifles or shotguns.

4. ATTIC—The Space between the ceiling beams, or similar structural elements, of the top story of a building and the roof rafters. The top story shall be the story at the highest level of the building.

§2.06 – “F” DEFINITIONS

1. FAMILY—One or more persons, including domestic employees, occupying a dwelling unit and living as a single, non-profit housekeeping unit; provided, that a group of five or more persons who are not within the second degree of kinship, as defined by civil law, shall not be deemed to constitute a family.
2. FIREARM—Any device designed or modified to be used as a weapon capable of firing a projectile using an explosive charge as a propellant, including but not limited to: guns, pistols, shotguns, rifles.
3. FIREARM ACCESSORY—Any device designed, modified or adapted to be inserted into or affixed onto any Firearm to enable, alter or improve the functioning or capabilities of the Firearm or to enable the wearing or carrying about one’s person of a Firearm.
4. FIREARM BUSINESS
 1. Firearm Dealer: A retail or wholesale operation involving the purchase or sale of Firearms, Ammunition, and/or Firearm Accessories.
 2. Gunsmith: Any retail operation involving the repairing, altering, cleaning, polishing, engraving, blueing or performing of any mechanical operation on any Firearm.
5. FRATERNITY OR SORORITY HOUSE—A building occupied by a group of students of either sex of a school or college as their residence during the academic year.

ARTICLE 23

ADVISORY COMMITTEE’S SUPPLEMENTAL RECOMMENDATION

Correction: The Advisory Committee recommended Favorable Action on Article 23, as amended and renumbered, by a vote of 19-0-7, not 19-0 as reported in the Combined Reports.

The roll call vote listed in the Report was correct and it is repeated below:

# Votes Yes	9	19	29
# Votes No	17	0	0
# Votes Abstain	0	7	0
Vote Description:	Amendment by substitution to revert the petitioner's motion	Main motion - recommend favorable action on the subcommittee motion - WA 23	Motion to correct a scrivener's error by adding "or \$6.02, 2.i. if the parcel is within the TPOD," to WA 23 and WA 24
	<i>Enter Y, N or A</i>	<i>Enter Y, N or A</i>	<i>Enter Y, N or A</i>
Scott Ananian	Y	Y	Y
Carla Benka	N	Y	Y
Ben Birnbaum			Y
Harry Bohrs	N	Y	Y
Cliff Brown	Y	A	Y
George Cole	Y	Y	Y
John Doggett	N	Y	Y
Dennis Doughty	Y	A	(chair)
Harry Friedman	N	Y	Y
David-Marc Goldstein	N	A	Y
Neil Gordon	Y	A	Y
Susan Granoff	N	A	Y
Kelly Hardebeck	Y	A	Y
Amy Hummel	N	Y	Y
Alisa Jonas	N	Y	Y
Janice Kahn	N	Y	Y
Steve Kanes	N	Y	Y
Carol Levin			Y
Pam Lodish	N	Y	Y
Linda Olson Pelhke	N	Y	Y
Donelle O'Neal	N	Y	Y
David Pollak	Y	Y	Y

# Votes Yes	9	19	29
# Votes No	17	0	0
# Votes Abstain	0	7	0
Vote Description:	Amendment by substitution to revert the petitioner's motion	Main motion - recommend favorable action on the subcommittee motion - WA 23	Motion to correct a scrivener's error by adding "or §6.02, 2.i. if the parcel is within the TPOD," to WA 23 and WA 24
Carlos Ridruejo			Y
Lee Selwyn	N	Y	Y
Alok Somani	N	Y	Y
Paul Warren	N	Y	Y
Christine Westphal	Y	A	Y
Neil Wishinsky	N	Y	Y
Chi Chi Wu	Y	Y	Y
Mike Sandman			Y

ARTICLE 25

ADVISORY COMMITTEE’S SUPPLEMENTAL RECOMMENDATION

Recommendation:

Refer the subject matter of Article 25 to the Department of Planning and Community Development for further refinement and clarification and that it report its findings and recommendations to the 2022 Annual Town Meeting, by a vote of 20-4 with 1 abstention.

Executive Summary:	<p>The Petitioners’ motion would amend Zoning By-Law Section 6.04.15 as follows:</p> <ol style="list-style-type: none">1. For Residential Parking Areas (all uses) with 1 (down from 15) parking space or more, increase the proportion of EV Ready Spaces from 15% to 100%2. For Non-Residential Parking Spaces with 7 (down from 15) parking spaces still requiring that the proportion of EV-Ready Spaces be 15%3. Deletes reference to additions and renovations to existing buildings4. Includes a provision that allows the Board of Appeals to grant a “special permit to alter the requirements of this paragraph for a specific project” <p>The Advisory Committee felt that Town staff made a strong case for this Warrant Article to be further developed and recommended a motion that would refer the subject matter of Article 25 to the Department of Planning and Community Development for further refinement and clarification and that it report its findings and recommendations to the 2022 Annual Town Meeting.</p>
Voting Yes will...	<p>On the Advisory Committee’s motion would refer the subject matter of Article 25 back to the Department of Planning and Community Development for further refinement and clarification and report back to the 2022 Annual Town Meeting.</p> <p>On the Petitioners’ motion would instruct the Building Department to require new Construction Permits to provide: in Residential Parking Areas 100% EV Ready Spaces and in Non-Residential Parking Areas, with 7 or more spaces, to provide at least 15% EV Ready Spaces.</p>
Voting No will...	<p>Leave Zoning By-Law Section 6.04.15 and current EV Ready Space requirements unchanged.</p>

Financial impact [if any]	The Advisory Committee's referral motion: There would be an increase in workload for the staff at the Building and Planning department due to the need to review, collaborate and develop a new Warrant Article for the 2022 Town Meeting. The Petitioners' motion: Unlikely, as the Building Commissioner does not believe there would an increase in work load for the staff at the Building Department.
Legal implications [if any]	The Attorney General Office would need to evaluate if this Warrant Article is in conflict with the Massachusetts Electrical Code or the Massachusetts State Building Code.

Introduction

With Warrant Article 25, the Petitioners laudable objectives are to increase availability of Electric Vehicle Ready Spaces in both residential and non-residential parking areas throughout town. As there is an increase in the adoption of electric vehicles, there is a clear need for a greater number parking spaces with electric chargers. According to the Petitioners, most of the charging takes place overnight, at the owner's residence, hence the goal to require all residential parking spaces be EV Ready. The cost of EV Ready spaces is lower in new construction than when retrofitting existing spaces, so the Petitioners believe it is reasonable to require that new parking spaces be EV Ready in anticipation of future adoption.

This Warrant Article is one more step towards combating climate change and reaching the Town's carbon reduction goals.

Evaluation Methodology/Research

- The Petitioners consulted with the Building and Planning and Community development department.
- Massachusetts Electrical Code, Massachusetts State Building Code, International Building Code and the International Residential Building Code.
- Planning and Building Department Report dated October 4, 2021
- Brookline Zoning By-Law
- Planning and Building Department Report dated November 3, 2021

Discussion

The Land Use, Zoning and Sustainability Subcommittee of the Advisory Committee held a (virtual) public hearing on Warrant Article 25 on October 4 and on November 4. Several meetings have also taken place between a subset of the Subcommittee, Petitioners and Town Staff. The full Advisory Committee held a public meeting on November 8, 2021.

The Advisory Committee is very supportive in general terms, of this Warrant Article and its goals towards combating the effects of climate change and reducing the carbon footprint of the Town. The Committee also considered the position and review several members of the Town staff in the Building and Planning Departments presented as they reviewed the Article. Town Staff, although supportive of the goals of this Article, was concerned with what they saw as conflicting with recently adopted Massachusetts

Electrical Code standards which require additional ventilation systems when charging electrical vehicles.

Staff and members of the Advisory Committee were also concerned on how the Warrant Article required 100% of the residential parking spaces be EV Ready, both in single-family, two-family and multi-family dwellings. This requirement meant that, in some cases, in one- and two-family dwellings *all the possible parking areas*, including the driveway, would have to be electrified. This would translate to a single-family home with a two-space garage and a driveway where two cars parked in front of the garage to be required to provide four EV Ready spaces, two inside the garage and two outside on the driveway. The inclusion of one- and two-family dwellings is still a point of disagreement between Town staff and the Petitioners.

Members of the Advisory Committee discussed how this Warrant Article would affect different neighborhoods in Town, such those which are more vehicle dependent due to the lack of public transportation in those area.

In multi-family dwellings, providing 100% of the parking spaces on a surface lot or parking garage could become economically burdensome. Staff also pointed out that even if the parking area could handle the potential electrical load required, that it was not guaranteed that the electric utility company would approve and provide the service demand. Subsequent amendments to Warrant Article, have clarified these requirements, but there is still disagreement between Town staff and the Petitioners regarding the appropriate percentage of required EV Ready spaces.

Additional discussion revolved around what would trigger this Warrant Article under the renovation of a building or dwelling. The Advisory Committee suggested that further details be included in the article that describe what the triggers would be. Some other questions were raised whether this Article belonged in the Zoning By-Law or in the State Building Code. Town staff's recommendation includes that this trigger only apply to three or more dwelling projects, which fall under the commercial building code.

The Committee discussed that there should be specific parameters and guidelines by which the Board of Appeals could grant the Warrant Article's waivers and exceptions. At the subcommittee's review, there were no such guidelines built into the Warrant Article. It was noted that proposed zoning overlays, such as the Waldo-Durgin development, are not exempt from this Article, and that could be in conflict with the memorandum of understanding. In subsequent amended versions of the Warrant Article, these issues have been resolved.

The Building Commissioner, and Town staff, felt some areas were difficult to enforce or, in their opinion, in conflict with other regulations such as current Building Codes. The Building Commissioner stated that the Building Department would be more comfortable with the proposed By-Law (1) targeting projects with three units or more, (2) increasing the EV-Ready requirement to 25% (up from 15%) rather than the proposed 100% and (3)

create a waiver/exemption process with guidelines for the Zoning Board of Appeals to follow.

Town staff has presented their recommendations on how to improve this Warrant Article for each of the amended versions of the Warrant Article presented by the Petitioners. The Advisory Committee believed that, although the goals of the Article were in the right direction and appropriate, the Warrant Article itself could improve if it was given more time to evolve with the expertise of the Building, Planning and Fire Departments, thus it recommended the motion to refer. When making its motion to refer, the Advisory Committee weighed the possible of loss of new EV Ready parking spaces that could be created during the proposed six-month delay, against the possible outcome of more time for crafting an improved Warrant Article for the 2022 Town Meeting in May.

The Advisory Committee, in its vote, reiterated that if time allows, it would be pleased to review and amend its recommendation to Town Meeting if the Petitioners submit an amended Warrant Article 25 which has broader support from the Building and Planning Departments.

Recommendation

Refer the subject matter of Article 25 to the Department of Planning and Community Development for further refinement and clarification and that it report its findings and recommendations to the 2022 Annual Town Meeting, by a vote of 20-4 with 1 abstention.

Advisory Committee Motion:

VOTED: by a vote of 20-4-1 to refer the subject matter of Article 25 to the Department of Planning and Community Development for further refinement and clarification and that it report its findings and recommendations to the 2022 Annual Town Meeting.

# Votes Yes	20
# Votes No	4
# Votes Abstain	1
Vote Description:	Motion To Refer WA25 to the Planning Department & Community Development and report back to the 2022 Annual Town Meeting
	<i>Enter Y, N or A</i>
Scott Ananian	N
Carla Benka	Y

# Votes Yes	20
# Votes No	4
# Votes Abstain	1
Vote Description:	Motion To Refer WA25 to the Planning Department & Community Development and report back to the 2022 Annual Town Meeting
Ben Birnbaum	Y
Harry Bohrs	Y
Cliff Brown	Y
George Cole	Y
John Doggett	Y
Dennis Doughty (chair)	
Harry Friedman	Y
David-Marc Goldstein	Y
Neil Gordon	N
Susan Granoff	Y
Kelly Hardebeck	
Amy Hummel	Y
Alisa Jonas	
Janice Kahn	Y
Steve Kanes	Y
Carol Levin	Y
Pam Lodish	Y
Linda Olson Pelhke	Y
Donelle O'Neal	A
David Pollak	N
Carlos Ridruejo	Y
Lee Selwyn	Y
Alok Somani	Y
Paul Warren	Y
Christine Westphal	
Neil Wishinsky	Y
Chi Chi Wu	N
Mike Sandman	

ARTICLE 30

ADVISORY COMMITTEE’S SUPPLEMENTAL RECOMMENDATION

Recommendation: The Advisory Committee’s vote on Article 30 was 23-3-0 to recommend Favorable Action to appropriate funds to settle the indemnity claim that Stanley Spiegel has asserted against the Town for the matter of Gerald Alston v. the Town of Brookline, et al, U. S. District Court #1:15-cv-13987-GAO, and 1st Circuit Court of Appeals #’s 20-1434 and 20-1435.

Note: The Advisory Committee will offer no motion under Article 30 if its proposed motion under Article 1 of Special Town Meeting 2 is approved by Town Meeting.

Executive Summary:	Article 30 seeks an appropriation to resolve an indemnification claim by Stanley Spiegel with regard to the Gerald Alston v. Town of Brookline litigation. The Advisory Committee considered Article 30 along with STM2, Article 1 (Budget Adjustments) and determined that the STM2, Article 1 was the more logical article under which to address the question of such funding. The Advisory Committee therefore made its recommendation to resolve the indemnification claim as a proposed budget adjustment under STM2, Article 1. That recommendation (which is repeated as the vote set forth below) was reported in the initial mailing of the Combined Reports. When it voted on STM2, Article 1, the Advisory Committee vote was 26-3-0.
Voting Yes will...	Enable the Town to end litigation and bring to a conclusion all aspects of the Gerald Alston v. Town of Brookline lawsuit.
Voting No will...	Risk a lawsuit resulting from the denial of indemnification and incur legal and other expenses to defend the Town’s decision.
Financial impact	\$198,050 plus third party consultant fees, currently estimated to be approximately \$5000, the latter being available in the FY 22 Office of the Town Counsel’s budget

Introduction

The Advisory Committee recommends that funds be appropriated by Town Meeting to be used for an indemnification payment to Stanley Spiegel and for payment to Mr. Spiegel or his counsel as a contingent fee for obtaining the Spiegel indemnification. The Committee also recommends that this appropriation be conditioned on an outside, third party review of documents to determine the reasonableness of the requested amounts.

Research

- Town Counsel’s office has reported that they do not have the bandwidth to undertake the document review and to offer a recommendation re the reasonableness of the requested amounts. They do have sufficient funds to engage a third party to perform these tasks.

- MGL Ch. 258, Section 13 (Indemnification of Municipal Officials):
<https://malegislature.gov/Laws/GeneralLaws/PartIII/TitleIV/Chapter258/Section13>

- Petitioner's Warrant Article Explanation, including letters of support for indemnification: <https://www.brooklinema.gov/DocumentCenter/View/26312/Combined-Reports-November-16-2021-STM>, beginning on page 30-1.

Discussion

(See also Advisory Committee's Discussion under Article 1 of STM2, found on pages 1-6 to 1-7 of the Combined Reports for STM2:

<https://www.brooklinema.gov/DocumentCenter/View/26313/Combined-Reports-November-16-2021-STM2>.

The main issue discussed by the Advisory Committee when it recommended the budget adjustment to fund Mr. Spiegel's indemnification centered on the reasonableness of the requested amount. The following proposed amendments focusing on the logistics for determining a reasonable fee were unsuccessful:

- Whether a \$20,000 sanction (in escrow, and not yet paid) against Mr. Alston's attorney should be deducted from the requested amount. (Defeated 3-26-0)
- Whether a list of specific documents should be required from Mr. Spiegel's attorney (Defeated 4-25-0)
- And whether the motion should state explicitly that an amount lower than the request could be approved. (Defeated 5-24-0)

The Advisory Committee determined that all of these issues were already encompassed within the provision for determination of the reasonableness of the request, that including them would simply result in unnecessary verbiage in the motion, and that the Advisory Committee was not in a position to prejudge these issues.

Recommendation – By a vote of 23-3-0, the Advisory Committee recommends Favorable Action on the following motion:

To reduce the Reserve Fund by \$198,050 and to transfer the amount of such reduction to the Claims and Settlements Account maintained by Town Counsel's Office ("Town Counsel"), with said appropriation to be used as payment of a sum not to exceed \$169,050 for an indemnification payment to Stanley Spiegel ("the Indemnification Payment") and of a sum not to exceed \$29,000 for payment to Mr. Spiegel or his counsel as a contingent fee for obtaining the Spiegel indemnification ("the Contingent Fee Payment"), provided that payment of the Indemnification Payment and the Contingent Fee Payment shall be conditioned on (a) the execution of a settlement agreement and release satisfactory to Mr. Spiegel, and the Town; (b)(i) the determination by a neutral third party, who shall be retained by Town Counsel and who shall be mutually acceptable to Mr. Spiegel, his counsel and Town Counsel, of the reasonableness of the amount of the Indemnification Payment and the determination by said third party that the Contingent Fee Payment is fair and consistent with normal contingent fee practices, or (ii) authorization by the Select Board.

ARTICLE 30

PETITIONERS' SUPPLEMENTAL EXPLANATION

The Petitioners welcome, appreciate, and join the Advisory Committee's motion (voted 26Y-3N!, now also by the Select Board) under STM2, which will be debated -- along with this article -- *the first night (Nov. 16th)* of the Town Meeting. For an updated Petitioners' Explanation of this article, answering recently raised concerns by a handful of Town officials, please see the STM2 *WA30 PETITIONERS' JOINDER IN A/C MOTION and SUPPLEMENT (to WA30'S) EXPLANATION* (also filed this date).

ARTICLE 1

SELECT BOARD'S SUPPLEMENTAL RECOMMENDATION

The Select Board reconsidered their vote on Article 1 in order to address the amendments proposed by the Advisory Committee. The Board discussed whether it was needed to transfer funds to the Town Counsel budget to settle the Spiegel claim given that there was support from the Advisory Committee on the indemnification. The Select Board could seek a Reserve Fund or Liability Fund request from the AC once a settlement agreement was reached. Ultimately a majority of the Board felt that supporting the AC motion would indicate a desire to reach a conclusion for this claim.

On November 9, 2021, the Select Board recommended FAVORABLE ACTION on the motion offered by the Advisory Committee.

ROLL CALL VOTE:

<u>Aye:</u>	<u>No:</u>
Greene	Fernandez
Hamilton	Aschkenasy
Van Scoyoc	

ADVISORY COMMITTEE'S SUPPLEMENTAL RECOMMENDATION

Recommendation: The Advisory Committee voted 26-0-2 to recommend Favorable Action on the routine reallocations of funds and 21-3-4 to recommend Favorable Action on the transfer to the Racial Equity Fund. It voted 26-3-0 to approve the amendment regarding the transfer of fund from the Reserve Account to the Claims and Settlements Account maintained by Town Counsel's Office

Executive Summary:	<p>Each year a budget amendment is offered at our November Special Town Meeting by the Town Administrator's office. The amendment takes into account known changes in state funding and other forms of revenue and known changes in expenditures. Any increase in net revenue is typically distributed across the line items that are specified in the amendment.</p> <p>An additional amendment to the FY 22 budget was made by the Advisory Committee to shift funds from the Reserve Account to Town Counsel's office in anticipation of possible action by the Select Board for indemnification for legal expenses.</p>
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Voting Yes will...	Amend the current (FY22) budget by balancing known changes in revenue with known changes in expenditures in accordance with the Town Administrator's recommendations and shift funds within accounts in accordance with the Advisory Committee amendment.
Voting No will...	Leave the FY 22 budget unchanged, with the result that increases in revenue will not be available to support increases in services or other aspects of Town operations, and leave the Reserve Account unchanged
Financial impact	Approval of the amendments will increase the amount of funding available for the DPW, add funds to the Collective Bargaining Reserve, and provide funding for the Racial Equity Fund.
Legal implications	Approval of the Advisory Committee's amendment will provide funding to offset a possible claim for indemnification for legal fees.

Introduction

The following changes in the FY 22 budget were proposed by the Town Administrator:

ITEM #	ORIGINAL BUDGET	PROPOSED CHANGE	AMENDED BUDGET
21. Schools	\$119,870,476	\$1,196,071	\$121,066,547
24. Collective Bargaining Reserve	\$415,000	\$791,587	\$1,206,587

- 1) Appropriate \$99,854.75 to be expended under the direction of the Commissioner of Public Works to address the impact of transportation network services on municipal roads, bridges and other transportation infrastructure and to meet the appropriation transfer \$81,753.60 from the Transportation Network Company (TNC) special revenue account and transfer \$18,101.15 from the Police Department's FY2019 TNC fund balance.
- 2) Appropriate \$200,000 to be expended under the direction of the Town Administrator, for the racial equity fund as established through the MOA with the Brookline Community Foundation dated 6/29/21 and to meet the appropriation transfer \$200,000 from the HCA stabilization fund.

The following amendment to the FY22 budget was passed by the Advisory Committee:

Voted: To reduce the Reserve Fund by \$198,050 and to transfer the amount of such reduction to the Claims and Settlements Account maintained by Town Counsel's Office ("Town Counsel"), with said appropriation to be used as payment of a sum not to exceed \$169,050 for an indemnification payment to Stanley Spiegel ("the Indemnification Payment") and of a sum not to exceed \$29,000 for payment to Mr.

Spiegel or his counsel as a contingent fee for obtaining the Spiegel indemnification ("the Contingent Fee Payment"), provided that payment of the Indemnification Payment and the Contingent Fee Payment shall be conditioned on (a) the execution of a settlement agreement and release satisfactory to Mr. Spiegel, and the Town; (b) the determination by a neutral third party, who shall be retained by Town Counsel and who shall be mutually acceptable to Mr. Spiegel, his counsel and Town Counsel, of the reasonableness of the amount of the Indemnification Payment and the determination by said third party that the Contingent Fee Payment is fair and consistent with normal contingent fee practices, or (ii) authorization by the Select Board.

Discussion

The Advisory Committee split its vote on the Town Administrator's proposal into three parts: (1) the \$1,196,071 increase in the School budget, (2) the \$791,587 increase in the Collective Bargaining Reserve and the \$99,854.75 allocated to the Department of Public Works; and (3) the \$200,000 allocated to the Racial Equity Fund.

The allocations of revenue to the Schools, the Collective Bargaining Reserve and the DPW was viewed as routine and appropriate. Discussion centered on the transfer of \$200,000 to the Racial Equity Fund and the nature of the Town's agreement with the Brookline Community Foundation (BCF).

The Town sought out the BCF because it is a non-political charitable entity with a long track record in both grant giving and fund raising. BCF has administered Town funds on the past, including block fund grants and COVID-19 funds to support, for example, food pantries in Brookline. Brookline entered into a Memorandum of Understand with the BCF to administer the Racial Equity Fund that was been established at Town Meeting's direction, with the intent to fund it from the community impact taxes paid by marijuana businesses in Brookline. The Memorandum calls for a committee of three BCF board members, three Town representatives, and six residents to assess how to use the funds. The committee is just getting organized, and no grant applications have been requested thus far.

The transfer of funds from the Reserve Account relates to a claim for indemnification of legal fees by Stanley Spiegel, who was drawn in as a defendant in the federal lawsuit by Gerald Alston against the Town, the then-current members of the Select Board, and others. Mr. Spiegel was a member of the Advisory Committee at the time as well as a member of Town Meeting, and he still is a Town Meeting member. A federal magistrate dismissed Mr. Spiegel from the case and ultimately awarded him \$20,000 in damages payable by Mr. Alston's attorney for frivolously including Mr. Spiegel in the first place.

Mr. Spiegel incurred substantial legal fees in the course of seek to be released from the lawsuit, and he has made a claim for reimbursement under the provisions of State law that provide for indemnification of "employees" – which case law has defined as

including volunteers - by the municipality they serve. Mr. Spiegel's attorney pointed out that any volunteer serving Brookline, whether a Town Meeting Member or a member of a board or commission, could be sued in connection with their service to the Town, and that all of us are at risk, even if the suits are ultimately determined to be frivolous.

The primary focus of the Advisory Committee's discussion was whether the \$198,050 claimed by Mr. Spiegel was reasonable. The Advisory Committee included language in the budget amendment that requires a third-party review, in detail, of the claim.

Recommendations

The Advisory Committee voted 26-0-2 to recommend Favorable Action on the routine reallocations of funds and 21-3-4 to recommend Favorable Action on the transfer to the Racial Equity Fund. It voted 26-3-0 to approve the amendment regarding the transfer of fund from the Reserve Account to the Claims and Settlements Account maintained by Town Counsel's Office

# Votes Yes	26	21	26
# Votes No	0	3	3
# Votes Abstain	2	4	0
Vote Description:	Favorable action on items 1 & 2, Article 1, STM 2	Favorable action on item 3	Advisory Committee motion
	<i>Enter Y, N or A</i>	<i>Enter Y, N or A</i>	<i>Enter Y, N or A</i>
Scott Ananian	Y	Y	N
Carla Benka	Y	Y	Y
Ben Birnbaum	Y	Y	Y
Harry Bohrs	Y	A	Y
Cliff Brown	Y	Y	Y
George Cole	Y	Y	Y
John Doggett	Y	A	Y
Dennis Doughty	Y	Y	Y
Harry Friedman	Y	N	Y
David-Marc Goldstein	Y	Y	Y
Neil Gordon	Y	A	Y
Susan Granoff	Y	Y	Y
Kelly Hardebeck	A	Y	Y
Amy Hummel	Y	Y	Y
Alisa Jonas	Y	Y	Y
Janice Kahn	Y	Y	Y
Steve Kanes	Y	N	N
Carol Levin	Y	Y	Y
Pam Lodish	Y	Y	Y

# Votes Yes	26	21	26
# Votes No	0	3	3
# Votes Abstain	2	4	0
Vote Description:	Favorable action on items 1 & 2, Article 1, STM 2	Favorable action on item 3	Advisory Committee motion
Linda Olson Pelhke			Y
Donelle O'Neal	Y	A	Y
David Pollak	Y	Y	Y
Carlos Ridruejo	Y	Y	Y
Lee Selwyn	A	N	Y
Alok Somani	Y	Y	Y
Paul Warren	Y	Y	Y
Christine Westphal	Y	Y	Y
Neil Wishinsky	Y	Y	Y
Chi Chi Wu	Y	Y	N
Mike Sandman			

ARTICLE 1

**WA30 PETITIONERS' JOINDER IN A/C MOTION and SUPPLEMENT (to
WA30'S) EXPLANATION**

Since WA30 will be debated for this STM2 (budget article) *the first night (Nov. 16th)* of the Fall Town Meeting, the WA30 Petitioners -- incorporating, but not repeating, the STM WA30 Explanation submitted Nov. 4th and with WA30 in the earlier Combined Reports -- now answer some recent questions by some (frankly, generally baffling) WA30 skeptics.

First, we unequivocally/enthusiastically appreciate/join the A/C's motion (voted 26Y-3N!, now also 3-2 by the Select Board) under STM2, which more clearly and more timely makes the appropriation sought in WA30.

Second, we note and appreciate that -- after six lloonnngg years -- nobody disagrees with the unassailable legal facts that (1) Stanley (& ACMs' & TMM's) are "officials," and (2) it's "within the scope of [TMM's/ACM's] ... official employment" to discuss with people, here another TMM and an activist, something like the Alston matter -- even if he/she/they say something "dumb" (an allegation highly disputed, but legally irrelevant to the court). For now 59 months, a 2 vote SBM plurality ruled otherwise, so thanks for the new consensus -- at long last.

Then, some recent (supposed) issues:

Q1: *What are the numbers behind the \$198k proposed "settlement"?*

A1: Slightly amplifying the A/C's Motion's excellent STM2 Explanation, the \$169,050 ("the Indemnification Payment" for Stanley) is his *out-of-pocket* loss, \$137,564 paid -- solely for the federal case) since 2015 and a balance due of \$25,486. The \$29,000 ("the Contingent Fee Payment") is a greatly discounted amount from what Stanley *would owe* his lawyers as a "contingency fee" for pursuing the indemnity, as per *Dugan v. [Dartmouth]*, 413 Mass. 641 (1992)("save harmless" means also reimbursing an official's legal fees for successfully suing for wrongly denied indemnity)]

Q2: *A/C's (small) minority: (1) deduct the \$20k sanctions & (2) "detailed" scrutiny of billings?*

A2: (1) The Rule 11 \$20k sanctions (still sitting in a court escrow account) was -- as explained by Magistrate Kelley -- not "compensatory," let alone for legal fees. It was *punitive*, with the main purpose, as she concluded (too optimistically): "I find that the sum of \$20,000 ... would serve as *an effective deterrent*." One ACM, ignoring that legalistic fact, instead misleadingly cited Kelley's (highly disputable) "dictum" about our legal fees that had been submitted at "market rates" almost double the rates Stanley was charged and paid. Another ACM called Stanley's keeping the \$20k "double-dipping." In

fact and fairness, there's no arguably decent, fair, legal reason the Town should get a c. 258, §13 "save harmless" *windfall* from the sanctions -- obtained by Stanley's lawyers, whom the Town has refused to pay for.

(2) (A) We've all along assumed we'd submit our invoices for some scrutiny, but not "*detailed*" scrutiny -- like for every task that's been done for 6 years -- which would be more complex, time-consuming, and expensive (for all) than the A/C's motion. (B) Had the S-Bd appropriately granted 2015 indemnity, financial terms could easily have been agreed; but now the Town should not retroactively micro-manage the billings -- and the representation (which we're proud of). (C) If the \$169,050 is not indemnified, *Stanley will still pay it*; that ain't c. 258 §13's "save harmless," so it would be yet another court case. And (D) we can't help but notice the (at best) irony that leading proponents of distrusting Stanley's lawyers' billings were strong advocates of at most minimal scrutiny of the absolute need for \$11 million to "settle" the Alston matter, which I, Stanley, and Diana voted for.

[Re the *contingency fee*, see below, Q4, alleged Petitioner's "conflict"]

Q3: *Why didn't Stanley use the Town's lawyers?*

A3: Aside from the Town never offering that, but only informally floating a similar idea *after denying the indemnity* -- but only at Stanley's own expense; it was a no-brainer from the 12/1/15 Complaint that Stanley & the Town defendants would each mutually disavow each other's alleged "co-conspirator" mis-deeds, e.g. Stanley's disdain for the promotions of Lt. Pender, etc. Joint representation would have been clearly unethical for the lawyers. See *Mass. Bar Association Ethics Opinion #1986-2* (barring defending both a cop and a town in a §1983 action when the town may say the officer was not acting within the scope of his official duties)

Q4: *Does Petitioner (MR) (1) have a conflict of interest and (2) "get paid for now" advocating?*

A4: Aside from WA30 clearly stating, "Submitted by: Martin Rosenthal, TMM-9, *also counsel for Stanley Spiegel*," sure I (MR) have a stake in this, and would share with the Zalkind firm the \$29k -- 17% of the \$169,050. And, (A) as a *contingency fee* (1) I'm *not* now being paid for indemnity efforts. (2) I haven't been paid (for this) over the 6 years. And (3) 17% is far below either a normal contingency rate or Stanley's fee agreement. If we have to go to court, he's likely to get far more for the (above) *Dugan* fees. Even better would be hourly fees, e.g. *at least* 200 hours -- at a "market rate" of \$500/hr. You do the math.

Ironically the proposed "settlement" would harm only me, the Petitioner (MR) -- who'd however welcome the \$29,000, but more so the recently much-touted *FINALITY*. Why not that have the latter also for now 86-year-old *Stanley*, who's been punished (both by the lawsuit *and* by the Town) for decades of Herculean and unpaid Town service?

Q5: *Are Petitioners “circumventing” or “working around” the “process,” as 2 SBM’s assert?*

A5: Presumably they mean the S-Bd “process” that’s abjectly failed for six years. And, their own inexplicable disregard for (flouting of) c. 258, §13 (“save harmless”) for Stanley -- and of the important community role of TMM’s and ACM’s -- shows why T/Mtg needs to now/finally decide this. Ironically again, those 2 SBM’s felt a year ago that T/Mtg should intervene and in its whim and S-Bd control of (any) litigation. As the law sometimes says, “sauce for the goose ...” -- and “fair is fair.”

FY2022 BUDGET - TABLE 1 NOV, 2021

		FY19 ACTUAL	FY20 ACTUAL	FY21 BUDGET	FY22 BUDGET	PROPOSED AMENDMENT	FY22 ADJUSTED BUDGET	\$\$ CHANGE FROM FY21	% CHANGE FROM FY21
	REVENUES								
	Property Taxes	224,490,569	234,846,238	254,898,615	270,104,696		270,104,696	15,206,081	6.0%
	Local Receipts	35,725,309	36,878,485	25,183,825	23,951,386	2,000,000	25,951,386	767,561	3.0%
	State Aid	22,112,759	22,259,149	22,371,084	22,835,638	(14,014)	22,821,624	450,540	2.0%
	Free Cash	8,427,936	9,081,257	11,065,720	10,401,890		10,401,890	(663,830)	-6.0%
	Other Available Funds	4,872,678	3,188,731	4,390,037	3,329,073		3,329,073	(1,060,964)	-24.2%
	TOTAL REVENUE	295,629,251	306,253,860	317,909,281	330,622,683	1,985,986	332,608,669	14,699,388	4.6%
	EXPENDITURES								
	DEPARTMENTAL EXPENDITURES								
	1 . Select Board	708,050	752,179	841,662	968,105		968,105	126,443	15.0%
	2 . Human Resources	498,780	459,435	594,485	604,195		604,195	9,710	1.6%
	3 . Information Technology	2,077,848	1,993,949	2,080,259	2,212,246		2,212,246	131,987	6.3%
	4 . Diversity, Inclusion, and Community Relations	301,017	257,180	327,515	331,266		331,266	3,751	1.1%
	5 . Finance Department	3,280,214	3,276,686	3,316,233	3,368,197		3,368,197	51,964	1.6%
	<i>a. Comptroller</i>	650,453	704,846	686,819	715,461		715,461	28,642	4.2%
	<i>b. Purchasing</i>	724,872	715,553	727,235	709,756		709,756	(17,479)	-2.4%
	<i>c. Assessing</i>	735,490	660,690	738,659	752,421		752,421	13,762	1.9%
	<i>d. Treasurer</i>	1,169,399	1,195,597	1,163,520	1,190,559		1,190,559	27,039	2.3%
	6 . Legal Services	1,166,351	1,149,170	1,057,022	1,081,333	169,050	1,250,383	193,361	18.3%
	7 . Advisory Committee	23,805	19,693	28,520	29,007		29,007	487	1.7%
	8 . Town Clerk	758,640	798,563	750,024	617,240		617,240	(132,784)	-17.7%
	9 . Planning and Community Development	1,184,050	1,230,257	1,153,926	1,272,086		1,272,086	118,160	10.2%
	10 . Police	18,578,613	17,742,983	17,386,626	17,493,030		17,493,030	106,404	0.6%
	11 . Fire	15,586,571	16,105,142	15,951,670	16,481,472		16,481,472	529,802	3.3%
	12 . Building	5,511,493	8,158,293	8,831,246	9,587,404		9,587,404	756,158	8.6%
(1)	13 . Public Works	16,069,996	16,360,644	16,008,198	16,668,234		16,668,234	660,036	4.1%
	<i>a. Administration</i>	911,556	966,214	950,304	959,616		959,616	9,312	1.0%
	<i>b. Engineering/Transportation</i>	1,306,949	1,316,971	1,350,119	1,392,568		1,392,568	42,449	3.1%
	<i>c. Highway</i>	5,532,652	6,062,296	5,103,753	5,233,854		5,233,854	130,101	2.5%
	<i>d. Sanitation</i>	3,246,937	3,413,212	4,030,333	4,310,136		4,310,136	279,803	6.9%
	<i>e. Parks and Open Space</i>	3,912,389	3,650,776	3,988,879	4,188,729		4,188,729	199,850	5.0%
	<i>f. Snow and Ice</i>	1,159,513	951,175	584,810	583,331		583,331	(1,479)	-0.3%
	14 . Library	4,249,242	4,241,330	4,000,760	4,262,381		4,262,381	261,621	6.5%
	15 . Health and Human Services	1,408,011	1,324,313	1,568,639	1,595,761		1,595,761	27,122	1.7%
	16 . Veterans' Services	201,513	270,108	312,087	316,384		316,384	4,297	1.4%
	17 . Council on Aging	954,436	966,717	913,379	1,027,656		1,027,656	114,277	12.5%
	18 . Recreation	983,211	1,117,436	1,034,617	1,058,391		1,058,391	23,774	2.3%
(2)	19 . Personnel Services Reserve	715,000	715,000	715,000	715,000		715,000	0	0.0%
(2)	20 . Collective Bargaining - Town	1,400,693	1,505,081	1,910,000	415,000	791,587	1,206,587	(703,413)	-36.8%
	<i>Subtotal Town</i>	<i>73,541,840</i>	<i>76,224,078</i>	<i>78,781,868</i>	<i>80,104,388</i>	<i>960,637</i>	<i>81,065,025</i>	<i>2,283,157</i>	<i>2.9%</i>
	21 . Schools	110,918,206	116,978,533	120,748,990	119,870,476	1,196,071	121,066,547	317,557	0.3%
	22 . Vocational Education Assessments	13,878	26,113	92,895	92,895		92,895	0	-
	<i>Subtotal Education</i>	<i>110,932,084</i>	<i>117,004,646</i>	<i>120,841,885</i>	<i>119,963,371</i>	<i>1,196,071</i>	<i>121,159,442</i>	<i>317,557</i>	<i>0.3%</i>
	TOTAL DEPARTMENTAL EXPENDITURES	184,473,924	193,228,724	199,623,752	200,067,759	2,156,708	202,224,467	2,600,714	1.3%
	NON-DEPARTMENTAL EXPENDITURES								
(1)	23 . Employee Benefits	62,487,155	65,149,336	68,518,848	71,554,793		71,554,793	3,035,945	4.4%
(3)	<i>a. Pensions</i>	23,785,769	24,917,372	26,569,845	28,490,221		28,490,221	1,920,376	7.2%
	<i>b. Group Health</i>	29,632,981	30,539,855	32,701,792	33,305,817		33,305,817	604,025	1.8%
(3)	<i>c. Retiree Group Health Trust Fund (OPEB's)</i>	4,570,465	4,781,980	4,181,979	4,181,979		4,181,979	0	0.0%
	<i>d. Group Life</i>	132,351	127,452	145,000	145,000		145,000	0	0.0%
	<i>e. Disability Insurance</i>	43,808	48,480	46,000	46,000		46,000	0	0.0%
(3)	<i>f. Worker's Compensation</i>	1,450,000	2,050,000	1,850,000	1,850,000		1,850,000	0	0.0%
(3)	<i>g. Public Safety IOD Medical Expenses</i>	200,000		0	0		0	0	-
(3)	<i>h. Unemployment Compensation</i>	200,000	200,000	200,000	525,000		525,000	325,000	162.5%

		FY19 ACTUAL	FY20 ACTUAL	FY21 BUDGET	FY22 BUDGET	PROPOSED AMENDMENT	FY22 ADJUSTED BUDGET	\$\$ CHANGE FROM FY21	% CHANGE FROM FY21
	<i>i. Medical Disabilities</i>	18,846	13,694	40,000	40,000		40,000	0	0.0%
	<i>j. Medicare Coverage</i>	2,452,935	2,470,503	2,784,233	2,970,776		2,970,776	186,544	6.7%
(2)	24 . Reserve Fund	1,785,722	2,521,043	3,620,855	3,829,013	(169,050)	3,659,963	39,108	1.1%
	25 . HCA Reserve Fund	0	0	701,485	0		0	(701,485)	-100.0%
	26 . Stabilization Fund	0	0	1,000,000	2,829,788		2,829,788	1,829,788	183.0%
	27 . Affordable Housing	545,112	200,000	726,549	80,737		80,737	(645,812)	-88.9%
	28 . Liability/Catastrophe Fund	456,762	389,700	49,729	81,223		81,223	31,494	63.3%
	29 . General Insurance	416,563	506,914	703,507	883,358		883,358	179,851	25.6%
	30 . Audit/Professional Services	131,994	122,128	142,000	147,000		147,000	5,000	3.5%
(5)	31 . Contingency Fund	14,754	61,069	10,000	10,000		10,000	0	0.0%
	32 . Out-of-State Travel	1,677	1,276	0	0		0	0	-
	33 . Printing of Warrants & Reports	54,633	49,666	45,000	45,000		45,000	0	0.0%
	34 . MMA Dues	13,121	13,226	13,891	14,239		14,239	348	2.5%
	<i>Subtotal General</i>	3,420,338	3,865,022	7,013,016	7,920,358	(169,050)	7,751,308	738,292	10.5%
(1)	35 . Borrowing	15,631,273	17,976,346	25,204,625	34,516,793		34,516,793	9,312,168	36.9%
	<i>a. Funded Debt - Principal</i>	10,195,000	11,333,360	13,674,000	19,377,067		19,377,067	5,703,067	41.7%
	<i>b. Funded Debt - Interest</i>	4,977,927	6,468,027	11,237,370	14,879,226		14,879,226	3,641,856	32.4%
	<i>c. Bond Anticipation Notes</i>	456,250	140,217	233,256	200,500		200,500	(32,756)	-14.0%
	<i>d. Abatement Interest and Refunds</i>	2,095	34,742	60,000	60,000		60,000	0	0.0%
	TOTAL NON-DEPARTMENTAL EXPENDITURES	81,538,766	86,990,704	100,736,489	113,991,944	(169,050)	113,822,894	13,086,404	13.0%
	TOTAL GENERAL APPROPRIATIONS	266,012,690	280,219,428	300,360,242	314,059,703	1,987,658	316,047,361	15,687,119	5.2%
	SPECIAL APPROPRIATIONS								
	36 . Voting Machines (revenue financed)				130,000		130,000		
	37 . Police/Fire Radio Infrastructure (revenue financed)				900,000		900,000		
	38 . Parking Meters (revenue financed)				140,000		140,000		
	39 . Wash/Harv/Kent/Davis Traffic Signal Upgrade (revenue financed)				140,000		140,000		
	40 . Accessible Pedestrian Signal Conversion (revenue financed)				50,000		50,000		
	41 . Street Rehab. (revenue financed)				2,072,224		2,072,224		
	42 . Sidewalk Repair/Reconstruction (revenue financed)				344,000		344,000		
	43 . Washington St. Rehab and Complete Streets (revenue financed)				600,000		600,000		
	44 . Stormwater Improvements (revenue financed Water and Sewer fund)				400,000		400,000		
	45 . Water Meter MTU Replacement (revenue financed Water and Sewer fund)				280,000		280,000		
	46 . Willow Pond Environmental Restoration (revenue financed Water and Sewer fund)				280,000		280,000		
	47 . Playground Equipment, Fields, Fencing (revenue financed)				260,000		260,000		
	48 . Town/School Grounds Rehab (revenue financed)				165,000		165,000		
	49 . Tree Removal and Replacement (revenue financed)				482,224		482,224		
	50 . Town/School ADA Renovations (revenue financed)				85,000		85,000		
	51 . Town/School Energy Conservation Projects (revenue financed)				165,000		165,000		
	52 . Public Building Fire Alarm upgrades (revenue financed)				175,000		175,000		
	53 . Town/School Bldg Security / Life Safety Systems (revenue financed)				170,000		170,000		
	54 . Classroom Capacity (revenue financed)				1,738,600		1,738,600		
	55 . Water System Improvements (utility bond)				2,000,000		2,000,000		
	56 . Wastewater System Improvements (utility bond)				3,000,000		3,000,000		
	57 . Murphy Playground (bond)				915,000		915,000		
	58 . Robinson Playground (bond)				1,150,000		1,150,000		
	59 . Town/School Bldg Envelope/Fenestration Repairs (bond)				750,000		750,000		
							0		
(4)	TOTAL REVENUE-FINANCED SPECIAL APPROPRIATIONS	10,979,868	9,949,094	8,828,250	7,617,048	0	7,617,048	(1,211,202)	-13.7%
	TOTAL APPROPRIATED EXPENDITURES	276,992,558	290,168,522	309,188,492	321,676,751	1,987,658	323,664,409	14,475,917	4.7%
	NON-APPROPRIATED EXPENDITURES								
	Cherry Sheet Offsets	88,500	89,070	86,027	103,231	(1,672)	101,559		
	State & County Charges	6,672,137	6,826,231	6,779,677	6,934,714		6,934,714		
	Overlay	1,762,675	1,785,140	1,830,085	1,882,988		1,882,988		

		FY19 ACTUAL	FY20 ACTUAL	FY21 BUDGET	FY22 BUDGET	PROPOSED AMENDMENT	FY22 ADJUSTED BUDGET	\$\$ CHANGE FROM FY21	% CHANGE FROM FY21
	Deficits-Judgments-Tax Titles	25,000	25,000	25,000	25,000		25,000		
	TOTAL NON-APPROPRIATED EXPEND.	8,548,312	8,725,441	8,720,789	8,945,932	(1,672)	8,944,260	223,472	2.6%
	TOTAL EXPENDITURES	285,540,869	298,893,963	317,909,280	330,622,683	1,985,986	332,608,669	14,699,389	4.6%
	SURPLUS/(DEFICIT)	10,088,382	7,359,897	0	0	0	0	0	

(1) Breakdown provided for informational purposes.

(2) Figures provided for informational purposes. Funds were transferred to departmental budgets for expenditure.

(3) Funds are transferred to trust funds for expenditure.

(4) Amounts appropriated. Bonded appropriations are not included in the total amount, as the debt and interest costs associated with them are funded in the Borrowing category (item #35).

FY22 BUDGET - TABLE 2 NOV 2021 FINAL MOTION

Department/Board/Commission	Personnel Services/ Benefits	Purchase of Services	Supplies	Other Charges/ Expenses	Utilities	Capital Outlay	Inter- Govt'al	Debt Service	Agency Total
Select Board (Town Administrator)	894,122	60,880	3,048	7,900		2,155			968,105
Human Resources Department (Human Resources Director)	321,796	239,359	14,900	26,500		1,640			604,195
Information Technology Department (Chief Information Officer)	1,242,973	675,773	10,350	15,050		268,100			2,212,246
Diversity, Inclusion, and Community Relations (Director)	304,391	20,000	3,000	3,000		875			331,266
Finance Department (Director of Finance)	2,459,347	824,334	46,960	28,707	1,219	7,630			3,368,197
Legal Services (Town Counsel)	812,449	183,269	2,500	250,550		1,615			1,250,383
Advisory Committee (Chair, Advisory Committee)	24,867		3,275	570		295			29,007
Town Clerk (Town Clerk)	490,288	110,172	15,250	500		1,030			617,240
Planning and Community Department (Plan. & Com. Dev. Dir.)	1,163,790	91,034	9,712	4,550		3,000			1,272,086
Police Department (Police Chief)	16,137,780	516,731	122,857	28,300	291,193	396,169			17,493,030
Fire Department (Fire Chief)	15,865,351	168,426	126,952	27,100	225,037	68,606			16,481,472
Public Buildings Department (Building Commissioner)	2,930,001	3,745,951	24,575	5,248	2,825,759	55,870			9,587,404
Public Works Department (Commissioner of Public Works)	8,710,724	5,121,628	970,261	45,500	1,132,392	687,730			16,668,233
Public Library Department (Library Board of Trustees)	3,136,179	236,861	583,525	4,700	257,992	43,124			4,262,381
Health & Human Services Department (Health & Human Svcs Dir)	1,282,613	221,514	35,100	4,120	47,629	4,785			1,595,761
Veterans' Services (Veterans' Services Director)	154,997	2,388	1,150	157,339		510			316,384
Council on Aging (Council on Aging Director)	890,566	48,418	18,846	4,250	59,876	5,700			1,027,656
Recreation Department (Recreation Director)	758,855	23,037	86,480	12,400	174,619	3,000			1,058,391
School Department (School Committee)									121,066,547
Total Departmental Budgets	57,581,089	12,289,775	2,078,741	626,284	5,015,716	1,551,834			200,209,984
DEBT SERVICE									
Debt Service (Director of Finance)								34,516,793	34,516,793
Total Debt Service								34,516,793	34,516,793
EMPLOYEE BENEFITS									
Contributory Pensions Contribution (Director of Finance)	28,490,221								28,490,221
Group Health Insurance (Human Resources Director)	33,305,817								33,305,817
Retiree Group Health Insurance - OPEB's (Director of Finance)	4,181,979								4,181,979
Group Life Insurance (Human Resources Director)	145,000								145,000
Disability Insurance	46,000								46,000
Workers' Compensation (Human Resources Director)	1,850,000								1,850,000
Unemployment Insurance (Human Resources Director)	525,000								525,000
Ch. 41, Sec. 100B Medical Benefits (Town Counsel)	40,000								40,000
Medicare Payroll Tax (Director of Finance)	2,970,776								2,970,776
Total Employee Benefits	71,554,793								71,554,793
GENERAL / UNCLASSIFIED									
Vocational Eudcation Assessments									92,895
Reserve Fund (*) (Chair, Advisory Committee)				3,659,963					3,659,963
Stabilization Fund (Director of Finance)				2,829,788					2,829,788
Liability/Catastrophe Fund (Director of Finance)				81,223					81,223
Housing Trust Fund (Planning & Community Developoment Dir.)				80,737					80,737
General Insurance (Town Administrator)		883,358							883,358
Audit/Professional Services (Director of Finance)		147,000							147,000
Contingency (Town Administrator)				10,000					10,000
Out of State Travel (Town Administrator)									
Printing of Warrants (Town Administrator)	15,000	20,000	10,000						45,000
MMA Dues (Town Administrator)				14,239					14,239
Town Salary Reserve (*) (Director of Finance)	1,206,587								1,206,587
Personnel Services Reserve (*) (Director of Finance)	715,000								715,000
Total General / Unclassified	1,936,587	1,050,358	10,000	6,675,950					9,765,790
TOTAL GENERAL APPROPRIATIONS	131,072,469	13,340,133	2,088,741	7,302,234	5,015,716	1,551,834		34,516,793	316,047,361

(*) NO EXPENDITURES AUTHORIZED DIRECTLY AGAINST THESE APPROPRIATIONS. FUNDS TO BE TRANSFERRED AND EXPENDED IN APPROPRIATE DEPT.